

liability it would have had with respect to the sold operations (if not for section 4204) should the Buyer withdraw from the Plan within the five plan years following the sale and fail to pay withdrawal liability.

7. The estimated amount of the unfunded vested benefits allocated to the Seller with respect to the operations subject to the sale is \$4,282,764.37, and the estimated amount of the unfunded vested benefits allocable to the Buyer with respect to its operations covered under the Plan is \$14,230,560.30.

8. The amount of the bond/escrow that would be required under section 4204(a)(1)(B) of ERISA is approximately \$1,000,000.

9. The Buyer submitted financial statements that show that it meets the net income test described in 29 C.F.R. section 2643.14(a)(1), and the net tangible asset test described in 29 C.F.R. section 2643.14(a)(2)(ii), with respect to the amount of unfunded vested benefits allocable to the operations subject to the sale and its pre-sale operations. The Buyer has requested confidential treatment of these statements on the ground that they are confidential within the meaning of 5 U.S.C. section 552.

10. The Buyer has sent by certified mail, return receipt requested, a complete copy of the request, excluding the agreements between the Seller and Buyer, certain exhibits, financial statements of the Buyer, and certain financial data recited in the request, to the Plan and the collective bargaining representative of the Seller.

Comments

All interested persons are invited to submit written comments on the pending exemption request to the above address.

All comments will be made a part of the record. Comments received, as well as the relevant non-confidential information submitted in support of the request, will be available for public inspection at the address set forth above.

Issued at Washington, D.C., on this 10th day of July, 1995.

Martin Slate,

Executive Director.

[FR Doc. 95-17310 Filed 7-13-95; 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-35940; File No. SR-DTC-95-07]

Self-Regulatory Organizations; the Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval on a Temporary Basis of a Proposed Rule Change Relating to DTC's Short Position Reclamation Procedures

July 6, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on April 20, 1995, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-DTC-95-07) as described in Items I and II below, which items have been prepared primarily by DTC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change on a temporary basis through December 31, 1995.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change seeks permanent approval of DTC's existing procedures to recall securities deliveries which have created short positions as a result of call lotteries or rejected deposits. The Commission previously granted temporary approval to proposed rule changes establishing DTC's procedures to recall certain deliveries which have created short positions as a result of call lotteries.² The Commission also previously granted temporary approval to expand the procedures to recall securities deliveries which have created short positions as a result of rejected deposits.³

¹ 15 U.S.C. 78s(b)(1) (1988).

² For a complete description and discussion of the procedures designed to eliminate short positions caused by call lotteries, refer to Securities Exchange Act Release Nos. 30552 (April 2, 1992), 57 FR 12352 [File No. SR-DTC-90-02] (order granting temporary approval through April 1, 1994, of DTC's procedures to recall certain deliveries which have created short positions as a result of call lotteries) and 35034 (November 30, 1994), 59 FR 63396 [File No. SR-DTC-94-08 SR-DTC-94-09] (order granting temporary approval through May 1, 1995, of DTC's procedures to recall certain deliveries which have created short positions as a result of call lotteries and rejected deposits).

³ Securities Exchange Act Release No. 35034.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments that it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.⁴

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change seeks permanent approval of procedures that: (1) Enable participants to recall book-entry deliveries of callable securities⁵ if the participant's account became short as a result of deliveries made between the call publication date⁶ and the date of DTC's call lottery⁷ and (2) enable participants to recall securities deliveries which have created short positions as a result of rejected deposits.⁸

Pursuant to DTC's proposal, a participant with a short position created either because of a delivery made between the call publication date and

⁴ The Commission has modified the text of the summaries submitted by DTC.

⁵ Callable securities are either preferred stock or bonds which the issuer is permitted or required to redeem before the stated maturity date at a specified price.

⁶ The call publication date is the date on which the issuer gives notice of redemption.

⁷ DTC has established a lottery process to allocate called securities in a partially called issue among participants having positions in the issue. DTC allocates the called securities among participants that had positions in the issue on the call publication date rather than on the day when the lottery is held. For a description of DTC's lottery processing procedures, refer to Securities Exchange Act Release No. 21523 (November 27, 1984), 49 FR 47352 [File No. SR-DTC-84-09] (notice of filing and immediate effectiveness of proposed rule change).

⁸ Under DTC procedures, a participant depositing securities receives immediate credit in its securities account (i.e., before the certificates are sent to the transfer agent for transfer and registration in DTC's nominee name). Once the participant's account is credited, the securities are available to the depositing participants for deliveries, withdrawals, and pledges. If the transfer agent rejects a deposit after the depositing participant has made a book-entry delivery of the credited securities, elimination of the credit from the participant's account may create a short position. If the securities are rejected by the transfer agent after ninety days of the deposit for registered securities and after nine months for bearer securities, the participant will not be able to recall the book-entry delivery and the participant's account will remain short.

the date of DTC's lottery or because of a rejected deposit may initiate the recall process within ten business days of the creation of the short position by sending a broadcast message directly to the receiver of the book-entry delivery. Participants will be able to transmit this message through DTC's Participant Terminal System network. The receiving participant will have five business days to comply with the recall request if it has a position in that security at DTC. If the receiving participant no longer has such a position at DTC, it must comply with the recall request within fifteen business days. If the short position is less than the amount of the delivery, the receiver has the option to return the entire delivery or just a portion equal to the delivering participant's short position. If the receiving participant does not comply with the recall request within the applicable time, the recalling participant may request DTC's intervention.⁹ Recalls will reverse only the book-entry delivery while the original transaction still must be settled by the delivering and receiving participants (*i.e.*, the delivering participant must deliver securities to the receiving participant).

DTC believes that the reclamation procedures have been effective in reducing short positions caused by call lotteries. Through March 31, 1995, a total of 265 short positions valued at \$48.3 million have been eliminated pursuant to the rule. As of March 31, 1995, DTC's 256 participants carried a total of 968 short positions valued at approximately \$37.4 million.¹⁰ The proposed rule change is part of a program that is being implemented at the request of participants and securities industry groups to eliminate short positions.

DTC believes the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because the rule proposal seeks to make permanent procedures that should help reduce the number of short positions created either by call lotteries or by rejected deposits and thus should assure the safeguarding of securities and funds which are in the

custody and control of DTC or for which DTC is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments have been solicited or received. DTC will notify the Commission of any written comments received by DTC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.¹¹ The Commission believes that DTC's short position reclamation procedures are consistent with DTC's obligations under Section 17A(b)(3)(F) because the proposed procedures should help DTC assure the safeguarding of securities and funds by reducing the number of outstanding short positions at DTC created either by call lotteries or by rejected deposits.

Under DTC's procedures, participants are obligated to cover their short positions immediately. As an incentive to cover the short position as soon as possible and as a cushion to protect DTC in the event of a sharp rise in the market price of the security, DTC participants are assessed a daily charge of 130% of the market value of each security for which the participant has a short position at DTC.¹² By assessing a 130% daily charge to short positions in a participant's account, DTC limits its risk of loss to instances when there is a rise in the market price of the security above 130%. With this rule change, DTC should further reduce its risk of loss by allowing DTC participants to recall certain deliveries which have resulted in short positions which should further reduce the total number of outstanding short positions. Thus, the proposal is consistent with Section 17A(b)(3)(F) ¹³ of the Act in that it should help DTC to reduce its risk of loss and thereby

should enhance DTC's ability to safeguard securities and funds under its control.

DTC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for so approving the proposed rule change because accelerated approval will allow DTC participants to continue to utilize without any disruption the reclamation procedures for short positions created by call lotteries or by rejected deposits.

However, the Commission realizes that the proposed reclamation procedures could cause broker-dealers inadvertently to create possession or control deficits.¹⁴ Therefore, the Commission believes that the proposed rule change should be carefully monitored before the procedures become permanent. For this reason, the Commission is temporarily approving the proposed rule change through December 31, 1995.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to the file number SR-DTC-95-07

⁹ The intervention request must be submitted to DTC no later than twenty-five days after the original reclamation request was made.

¹⁰ For the purposes of this filing, DTC defines the term "short position" to mean a separate entry (line item) representing a participant's obligation to deliver to DTC one or more securities in a specific issue. Letter from Piku K. Thakkar, Assistant Counsel, DTC, to Chris Concannon, Commission (May 26, 1995).

¹¹ 15 U.S.C. 78q-1(b)(3)(F) (1988).

¹² Securities Exchange Act Release No. 26896 (June 5, 1989), 54 FR 25185 [Filed No. SR-DTC-89-07] (order approving a proposed rule change concerning invitations to tender to cover short positions).

¹³ 15 U.S.C. 78q-1(b)(3)(F) (1988).

¹⁴ The Commission is concerned with the proposal's impact on broker-dealer's compliance with Rule 15c3-3 under the Act [17 CFR 240.15c3-3]. This rule requires broker-dealers to obtain and thereafter to maintain physical possession or control of fully-paid securities and excess margin securities carried by a broker-dealer for the account of a customer [17 CFR 240.15c3-3(b)(1)]. If as a result of a recall procedure, DTC reverses the delivery of a security that is a fully-paid or excess margin security at the receiving broker-deficit in the number of securities that should be under its physical possession or control.

and should be submitted by August 4, 1995.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-DTC-95-07) be, and hereby is, approved through December 31, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 95-17264 Filed 7-13-95; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-35937; International Series Release No. 825; File No. SR-OCC-95-05]

Self-Regulatory Organizations; the Options Clearing Corp.; Filing of Proposed Rule Change Seeking Approval to Issue, Clear, and Settle Customized Foreign Currency Options on the Italian Lira and Spanish Peseta

July 5, 1995.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on May 4, 1995, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will enable OCC to issue, clear, and settle option transactions where the Italian lira or the Spanish peseta is either the trading currency or the underlying currency.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C)

below, of the most significant aspects of such statements.²

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Under the proposed rule change, OCC will issue, clear, and settle option transactions where the Italian lira or the Spanish peseta is either the trading currency or the underlying currency. The Philadelphia Stock Exchange ("PHLX") has proposed to list and trade such foreign currency options through its customized options facility.³

The PHLX rule filings propose to enable its members to trade customized contracts between the lira or the peseta and any other approved currency. Currently, OCC has approval to list and clear flexibly structured option contracts on any combination of the following currencies: (1) Australian dollars, (2) British pounds, (3) Canadian dollars, (4) German marks, (5) European Economic Community currency units, (6) French francs, (7) Japanese yen, (8) Swiss francs, and (9) United States dollars. OCC is now proposing to add the Italian lira and the Spanish peseta to that list of approved currencies.

Options on the lira or the peseta will be cleared and settled in accordance with the clearance and settlement mechanisms already in place for flexibly structured foreign currency options and for cross-rate foreign currency options. In addition, options on the lira or the peseta will be margined like OCC's existing foreign currency and cross-rate foreign currency option contracts. Accordingly, OCC has determined that no changes to its by-laws or rules are necessary to accommodate these new contracts.

OCC believes the proposed rule change is consistent with the requirements of section 17A of the Act⁴ and the rules and regulations thereunder because the proposal will provide for the prompt and accurate clearance and settlement of transactions in options on the Italian lira and the Spanish peseta and will provide for the safeguarding of related securities and funds. The proposed rule change meets such requirements by establishing a framework in which existing and

reliable OCC systems, rules, and procedures are extended to the processing of these new currency contracts.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC believes that no burden will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments have been solicited or received. OCC will notify the Commission of any written comments received by OCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which OCC consents, the Commission will:

(a) By order approve such proposed rule change or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filings will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the file number SR-OCC-95-05 and should be submitted by August 4, 1995.

² The Commission has modified the language in these sections.

³ For a discussion of the PHLX proposals, refer to Securities Exchange Act Release Nos. 35678 (May 4, 1995), 60 FR 24945 (File No. SR-PHLX-95-20) (notice of proposed rule change to list and trade options on the Italian lira) and 35677 (May 4, 1995), 60 FR 24941 (File No. SR-PHLX-95-21) (notice of proposed rule change to list and trade options on the Spanish peseta).

⁴ 15 U.S.C. 78q-1 (1988).

¹⁵ 17 CFR 200.30-3(a)(12) (1994).

¹ 15 U.S.C. 78s(b)(1) (1988).